

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ALLAN FRED ALTERGOTT,)	3:15-cv-00159-RCJ-WGC
)	
Plaintiff,)	<u>MINUTES OF PROCEEDINGS</u>
)	
vs.)	August 18, 2016
)	
SENNA, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

PRESENT: THE HONORABLE WILLIAM G. COBB, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: Katie Lynn Ogden REPORTER: FTR

COUNSEL FOR PLAINTIFF: Allan Fred Altergott, Pro Se (Telephonically)

COUNSEL FOR DEFENDANTS: Benjamin Johnson (Telephonically)

MINUTES OF PROCEEDINGS: Motion Hearing

11:10 a.m. Court convenes.

The court convenes to address Plaintiff's "Motion to Compel Discovery Pursuant to Rule 56(F)" (ECF No. 48). Defendants filed a response to Plaintiff's motion on 8/11/2016 (ECF No. 51). Plaintiff did not submit a reply.

Mr. Altergott verifies there are no outstanding discovery issues, but his intention for filing the entitled motion to compel is to subpoena records that will identify dates defendant Georgia Luce was on leave from Ely State Prison ("ESP"). Specifically, Plaintiff is seeking documents to address whether defendant Luce was or was not working on March 11, 2013.

The court clarifies that Plaintiff's motion will be construed as a request for additional discovery pursuant to Fed. R. Civ. P. 56(d), not a motion to compel.

After hearing the parties' respective positions, the court will allow Plaintiff to seek additional discovery under Fed. R. Civ. P. 56(d). Defendants are ordered to submit documentation to Plaintiff no later than **Tuesday, 8/23/2016**, relating to defendant Luce's leave of absence between the time period of February 15, 2013 through the end of March 2013. The Defendants shall also file the documentation with the court. If there is any confidential

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information contained in the additional documentation, Defendants are granted leave in advance to file the documentation under seal. Furthermore, if the documents are confidential, Mr. Altergott shall be notified and have the opportunity to review the documents as soon as possible without having to kite the warden to review the documents.

Thereafter Plaintiff receives documentation relating to defendant Luce's leave of absence, Mr. Altergott shall have up to and including **Friday, 9/2/2016**, to file a supplemental memorandum to Defendants' motion for summary judgment (ECF No. 23). Defendants shall have until **Monday, 9/12/2016**, to file a response.

The court will hold Defendants' motion for summary judgment (ECF No. 23) in abeyance until the additional discovery briefing is complete.

Therefore, IT IS ORDERED that Plaintiff's "Motion to Compel Discovery Pursuant to Rule 56(F)" (ECF No. 48) is **GRANTED in part** and **DENIED in part** pursuant to today's discussions.

The court verifies the docket reflects the summons issued as to defendant Luce was returned executed on 7/8/2016 (ECF No. 44). The service date on the proof of service states 6/28/2016. The courtroom deputy is directed to send Plaintiff a copy of the summons returned executed as to defendant Luce with a copy of today's minutes of proceedings.

The court recommends DAG Johnson advise defendant Luce she runs the risk of a default judgment against her in this action if she does not answer.

There being no additional matters to address at this time, court adjourns at 11:38 a.m.

LANCE S. WILSON, CLERK

By: /s/
Katie Lynn Ogden, Deputy Clerk